

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

19-cr-04274 WJ

MATTHEW VON ROTZ,

Defendant.

MEMORANDUM OPINION AND ORDER
HOLDING DENIAL OF REQUEST FOR COMPASSIONATE RELEASE (DOCUMENT
58) IN ABEYANCE PENDING DEFENDANT'S FILING OF A REPLY

THIS MATTER comes before the Court upon Defendant's Motion to Set Aside Decision Denying Motion for CARES Act relief, filed September 27, 2021 (**Doc. 62**).

On November 3, 2020, the defendant plead guilty to a one-count Indictment. Count 1 charged Felon in Possession of a Firearm and Ammunition, in violation of 18 U.S.C. § 922(g)(1) and 18 U.S.C. §924. On January 14, 2021, this Court sentenced Defendant to a term of 60 months imprisonment. Defendant filed a Motion for Compassionate Release Under 18 U.S.C. §3582 and the First Step Act on April 29, 2021 (Doc. 56) which the Court denied on May 25, 2021 (**Doc. 58**). In this motion, Defendant seeks reconsideration of that ruling.

DISCUSSION

Defendant seeks to set aside the Court's denial of his motion for compassionate release because he was never served or received a copy of the Government's response (Doc. 59), and thus never had an opportunity to file a reply to any argument raised in the response which could have influenced the Court's ruling. The Court's review of the docket indicates that the Government's response was not distributed to Defendant by USPS, as it should have been and

for this reason, the Court will grant Defendant's request for an additional period of time in which he may file a reply.

The Court therefore ORDERS that:

(1) the Clerk's Office shall ensure that documents filed in this case, particularly those beginning with Document 56 (Defendant's Motion for Compassionate Release) are distributed to Defendant so that he receives copies of these documents at his most current address as listed on the docket;

(2) Defendant is granted a **THIRTY (30) day period (as requested by Defendant) from the date this Order is entered** in which to reply to the Government's response;

(3) This Court's Order denying Defendant's request for compassionate release (**Doc. 60**) is hereby **held in abeyance** pending the Court's consideration of Defendant's filing of a timely reply; and

(4) Defendant's failure to timely file a reply without good cause will result in the Court's reinstatement of the Order denying Defendant's motion for compassionate release.

IT IS SO ORDERED.



WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE